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PTO/SB/21 (09-04)

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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	09/764,572	
	Filing Date	January 18, 2001	
	First Named Inventor	Ackerman et al	
	Art Unit	2831	
	Examiner Name	Patel, D.R.	
Total Number of Pages in This Submission	10	Attorney Docket Number	041443-00752

ENCLOSURES (Check all that apply)		
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	54487		
Signature			
Printed name	John Wilson Jones		
Date	July 17 2006	Reg. No.	31,380

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:  
Eva Ackerman and Randy Gene Clark

Serial No.: 09/764,572

Filed: January 18, 2001

For: A Method of Assisting a  
Compromised Barrier

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Atty. Dkt. No.: 041443-00752

Group Art Unit: 2831

Examiner: Patel, Dhirubhai R.

**REPLY BRIEF**

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	§	Group Art Unit: 2831
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	§	Examiner: Patel, Dhirubhai R.
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	§	
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Compromised Barrier	§	

**REPLY BRIEF**

Mail Stop Appeal Brief – Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Appellants hereby submit this Reply Brief, in triplicate, in response to the Examiner's Answer dated May 17, 2006.

The Examiner has failed to address the arguments raised by Appellants in the Appeal Brief. Appellants therefore repeat each and every argument previously raised. Appellants further bring two particular points to the Board's attention.

1. **Rejection of Claims 23-27, 37-38 and 40 Over *Dykhoff*.**

The Examiner continues to fail to establish a foundation for the rejection of the claims over *Dykhoff*. The Examiner's synopsis of the Exhibits to the Declaration of Randy Clark is incomplete. First of all, Exhibit A clearly references the gasket as being composed of an intumescent material and Exhibit B discloses the intumescent material as being "hydrated

aluminum silicate acid treated flake graphite”, both of which are elements of the claims. Further Exhibits D and E disclose more than the elements set forth by the Examiner on page 13 of his Appeal Brief. Exhibits D and E relate to the tests evidencing the reestablishment of the fire rating of the barrier using the intumescent material, as discussed in the Declaration signed by the declarant Clark.

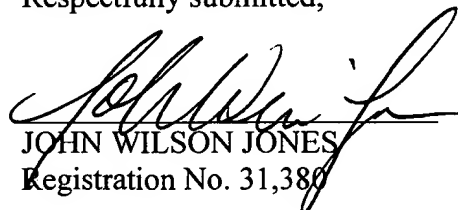
2. **Rejection of Claims 23-27, 37-38 and 40 Over *Close* in view of *Landin*.**

The Examiner fails to appreciate that plastics are not fire resistant insulative materials. *Close* discloses the use of plastic gaskets to prevent cool air from flowing into a room. Plastics melt at high heat. Plastics are not used as fire resistant materials. The Examiner’s statement that plastics fail to conduct electricity or heat is not understood in the context of the claims of Appellants. The Examiner’s continual failure to appreciate the term “fire rating” as illustrated in the documentation previously made of record does not warrant the rejections made.

Reversal of the rejections made by the Examiner is earnestly requested.

Respectfully submitted,

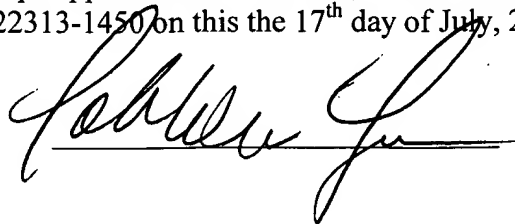
Date: July 17, 2006

  
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I hereby certify that this correspondence is being deposited by First-Class Mail in an envelope addressed to: Mail Stop Appeal Brief – Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this the 17<sup>th</sup> day of July, 2006.

A handwritten signature in black ink, appearing to read "Robert J. Smith", is written over a horizontal line.